

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARASH PATRICK RASTI,

Defendant.

8:21-CR-151

MEMORANDUM AND ORDER

This matter is before the Court for its review of the Magistrate Judge's Findings and Recommendation ([Filing 32](#)) recommending the Court deny Defendant's Motion to Dismiss Count III of the Indictment ([Filing 26](#)) and give the government fourteen (14) days to elect under which prong of [18 U.S.C. § 924\(c\)\(1\)\(A\)](#) it wishes to proceed against Defendant. No party has objected.

[28 U.S.C. § 636\(b\)\(1\)](#) requires de novo review "only when a party objected to the magistrate's findings and recommendations." *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609, 619-20 (8th Cir. 2009) (quoting *Peretz v. United States*, 501 U.S. 923, 939 (1991)). "[T]he failure to file objections eliminates not only the need for de novo review, but any review by the district court." *Id. at 620*. Furthermore, the Magistrate Judge advised the parties, pursuant to NECrimR [59.2](#), that any objection must be filed within fourteen days and "[f]ailure to timely object may constitute a waiver of any such objection." [Filing 32 at 5](#). Because no party has objected, any objections are waived, and the Court will adopt the Magistrate Judge's Findings and Recommendation ([Filing 32](#)). Accordingly,

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation, [Filing 32](#), is adopted;
2. Defendant's Motion to Dismiss Count III of the Indictment, [Filing 26](#), is denied;

3. The government shall have fourteen (14) days from today's date to provide notice of under which prong of [18 U.S.C. § 924\(c\)\(1\)\(A\)](#) it will pursue its case against Defendant; and
4. The Clerk of Court is ordered to terminate the pending motions at [Filing 26](#) and [Filing 32](#).

Dated this 1st day of September, 2021.

BY THE COURT:



Brian C. Buescher
United States District Judge